



**Request for City Council Committee Action
From the City Attorney's Office**

Date: April 26, 2002
To: Ways & Means/Budget Committee
Referral to: None

Subject: Curtis v. City of Minneapolis, et al.

Recommendation: That the City Council approve settlement of the claim for attorney's fees and costs by Joseph Curtis, federal district court file no. 00-784, in the amount of \$40,992.04 payable to Joseph Curtis and his attorney, Robert Bennett, and authorize the City Attorney to execute any documents necessary to effectuate the settlement and release of claims payable from Fund/Org. 6900 150 1500 4000.

Previous Directives: On April 19, 2002, the City Council authorized settlement of the underlying lawsuit and the payment of reasonable attorney's fees in an amount to be determined by the court.

Prepared by: Timothy S. Skarda, Assistant City Attorney, 673-2553

Approved by: 

Jay M. Heffern
City Attorney

Presenter in Committee: Jay M. Heffern, City Attorney

Financial Impact (Check those that apply)

- ☐ No financial impact - or - Action is within current department budget.
(If checked, go directly to Background/Supporting Information)
- ☐ Action requires an appropriation increase to the Capital Budget
- ☐ Action requires an appropriation increase to the Operating Budget
- ☐ Action provides increased revenue for appropriation increase
- ☐ Action requires use of contingency or reserves
- ☒ Other financial impact (Explain): Payment from Fund/Org. 6900 150 1500 4000
- ☐ Request provided to the Budget Office when provided to the Committee Coordinator

Community Impact:

City Goals: Build Community

Background/Supporting Information

This incident involves allegations of excessive force by Minneapolis police officers on April 8, 1999. The underlying lawsuit was settled and the settlement approved by the City Council on April 19, 2002. The prior settlement authorized the payment of reasonable attorney's fees in an amount to be determined by the

court. In the process of preparing court submissions, the parties have arrived at a proposed negotiated settlement of the claim for attorney's fees.

In the underlying case, officers obtained a valid warrant to search 2929 Garfield Avenue South after drug activity was observed. Mr. Curtis was not a subject of the investigation. He is a 53-year-old African American man who had suffered a series of strokes that have severely affected his mobility and ability to speak. He was sitting on his bed. When Mr. Curtis did not respond to commands to get onto the floor, he was pulled from the bed and knocked down with a 'bunker,' a shield behind which officers protect themselves during forced entries. After the apartment was secured, the officers learned that Mr. Curtis was disabled and handcuffs were removed and he was assisted with his injuries. Mr. Curtis suffered injuries to his mouth as a result of the force that was used.

Because the lawsuit involved allegations of violations of the Plaintiff's civil rights under 42 U.S.C. § 1983, Mr. Curtis is entitled to recover reasonable attorney's fees and costs. Generally, if the parties cannot agree on the amount of fees and costs, the issues are submitted to the district court for determination. The previously approved settlement contained an agreement by the City to pay reasonable fees and costs in an amount to be determined by the district court. At the time of the settlement, we estimated that the petition for attorney's fees and costs would be between \$25,000 and \$50,000.

Prior to submitting his petition to the district court, Mr. Bennett supplied an itemized statement of fees and costs for our review. We have reviewed the fees and costs and reached a settlement in the amount of \$40,992.04. The itemized billing for attorney's fees was in the amount of \$44,220.80 for 222.10 hour of work. Mr. Bennett has agreed to reduce this claim to \$40,000.00, which amounts to an hourly rate of approximately \$180.00. This hourly rate is in keeping with hourly rates that have been previously approved by the courts. We believe the reduced fee claim to be reasonable. The City expended 222.05 hours in defense of the lawsuit. The number of hours claimed by Mr. Bennett also appear to be reasonable in light of the hours spent defending the lawsuit. The claim for costs in the amount of \$992.04 appears reasonable. The defense costs were approximately \$500.00, but did not include filing fees, court reporter fees and electronic legal research costs.

The reduced claim for attorney's fees and costs appears reasonable and approval of the claim would be in the best interests of the City of Minneapolis. There appears to be little basis to challenge the reduced amount before the district court. If the Plaintiff is required to petition the district court for fees and costs, he would be entitled to recover the costs of preparing and arguing the Petition.